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MEMORANDUM
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Arizona Corporation Commission

DOCKETED

FROM: Steven M. Olea
Director
Utilities Division

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

NOV -7 2014

DATE: November 07, 2014

DOCKETED BY

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RE: **STAFF NOTICE IN RESPONSE TO AUGUST 7, 2014 PROCEDURAL ORDER: IN THE MATTER OF THE APPLICATION OF LEXENT, INC. FOR APPROVAL TO CANCEL THEIR CERTIFICATE OF CONVENIENCE AND NECESSITY. (DOCKET NO. T-20875A-14-0111)**

On August 7, 2014, the Administrative Law Judge issued a Procedural Order which required Utilities Division Staff ("Staff") to provide the following information:

Staff shall docket a filing verifying whether Lexent, Inc. ("Lexent") has a performance bond on file with the Commission in compliance with Decision No. 67883 which needs to be returned to the Company and, if so, verification of the party to whom it should be returned.

- o The Arizona Corporation Commission ("Commission") received a \$100,000 replacement performance bond for Lexent, which was filed in this docket on October 2, 2014. Pursuant to Lighttower, LLC's ("Lighttower") instructions, the bond needs to be returned to the person at the address included in the Amended Staff Report.

Staff's filing shall also document the basis for their belief that CCG and Lexent never provided facilities-based local exchange telecommunications services within the State of Arizona.

- o CCG Communications, LLC had no customers so there were no customers to be transferred to Lexent. (See Decision No. 73581, Page 3, Line 11.) Lexent's 2014 Annual Utilities Report indicates that it has zero customers. In response to Staff Data Request STF 1.12(a), Lexent indicated it never had any customers. (See Attached.) Lexent also submitted an affidavit attesting that it has no customers for intrastate telecommunications services in Arizona. (See attached Affidavit.)

Staff's filing shall also document Lighttower's relationship with Lexent and provide confirmation that Lighttower has the authority to request cancellation of Lexent's CC&N.

- o On October 9, 2014, Mr. David L. Mayer, Executive Vice President, General Counsel and Officer of Lexent, Inc. filed a letter to clarify the relationship between Lexent and Lighttower. Mr. Mayer states that Lighttower Fiber Networks is simply a

Directors to bind Lexent, and requests the Commission cancel Lexent's CC&N for the provision of facilities-based local exchange services pursuant to Decision No. 67883, originally issued to CCG Communications, LLC in Docket No. T-04290A-04-0838 on June 1, 2005, and transferred to Lexent pursuant to Decision No. 73581 by the Commission in Docket No. T-04290A-12-0373 on November 21, 2012.

SMO:LLM:tdp\ML

Originator: Lori L. Morrison

SERVICE LIST FOR: LEXENT, INC.
DOCKET NO. T-20875A-14-0111

Ms. Fernanda Hilb Manko
Director, Regulatory Compliance and Legal Services, Lexent, Inc.
Presidents Plaza Building One
196 Van Buren Street, Suite 250
Herndon, Virginia 20170

STAFF'S FIRST SET OF DATA REQUESTS TO
LEXENT, INC. ("Lexent" or "Company")
DOCKET NO. T-20875A-14-0111
JUNE 3, 2014

- STF 1.6 Please indicate if there are any affiliates of Lexent currently offering telecommunications services in Arizona? If yes, are the telecommunications services provided by Lexent similar to those offered by its affiliates?
- Lexent has no affiliates offering telecommunications services in Arizona.
- STF 1.7 Did Lexent have any service contracts with customers? If so, please describe how the service contract were honored or terminated with the customers.
- None with customers in Arizona.
- STF 1.8 Does Lexent have a performance bond or irrevocable sight draft letter of credit ("ISDLOC") on file with the ACC? If yes, please specify the amount of the bond or ISDLOC.
- Yes. \$100,000.00 License/Performance Bond.
- STF 1.9 If the response to STF 1.8 is affirmative, please specify if the Lexent provided the original bond or ISDLOC to the ACC or just a copy (proof) of the bond or ISDLOC.
- Original Bond was issued to Arizona Corporation Commission.
- STF 1.10 In addition to cancelling its authority to provide telecommunications services in Arizona, is Lexent also requesting to cancel its service tariffs?
- Yes.
- STF 1.11 According to Utilities Annual Report records, Lexent did not file an Annual Utilities Report with the Utilities Division in 2012 but CCG Communication, LLC did. Please explain why Lexent did not file an Annual Utilities Report in 2012.
- CCG was the entity which held the certificate to provide telecommunications services in Arizona before the certificate was transferred to Lexent. Per the Utilities Staff's recommendation, CCG filed the 2012 Annual Report because it was the company holding the certificate at the time.
- STF 1.12 In its letter to the Arizona Corporation Commission ("Commission"), Lexent Telecom, Inc. ("Lexent") requests the Commission cancel its Certificate of Convenience and Necessity ("CC&N") to provide telecommunications services in Arizona. Please reply to the following:

STAFF'S FIRST SET OF DATA REQUESTS TO
LEXENT, INC. ("Lexent" or "Company")
DOCKET NO. T-20875A-14-0111
JUNE 3, 2014

- a. Did Lexent ever have any customers in Arizona? If so, please indicate the date the last customer Lexent had in Arizona left its network.

No.

- b. Please clarify if Lexent provided any legal notice of the Application to cancel telecommunications services in any area, billing insert or publication in Arizona as required in the Arizona Administrative Code ("A.C.C.") rule R14-2-1107. If legal notice was provided, please provide a copy of that notice and a description of the manner of distribution of the notice (e.g., direct notice to affected customers via bill insert).

Per the Utilities' Staff's recommendation, Lexent does not need to publish legal notice of the Application to cancel telecommunications services because it does not have customers in Arizona.

- c. If Lexent has no customers to notify because it has no current customers in Arizona, please provide an affidavit attesting to this effect.

Please see affidavit attached herein as Attachment 1.

- d. A.A.C. Rule R14-2-1107(B) indicates that "no later than 20 days after the application is filed, the telecommunications company shall publish legal notice of the application in all counties affected by the application". If Lexent believes that the published notice requirement should be waived, please provide a statement requesting a waiver of published notice and describe in detail why waiving this requirement is just, reasonable and in the public interest.

Please see waiver request attached herein as Attachment 2.

AFFIDAVIT

I, David L. Mayer, officer of Lexent, Inc., affirm that Lexent, Inc. has no customers to notify because it has no current customers in Arizona.

June 4, 2014 [Signature]
Date David L. Mayer
 General Counsel, EVP & Secretary
 Lexent, Inc.

Contact Person: Fernanda Manko, Director, Regulatory Compliance and Legal Services, Lexent, Inc. (703) 434-8533

STATE OF MASSACHUSETTS
COUNTY OF Middlesex

I, the undersigned Notary Public, do hereby affirm that David L. Mayer personally appeared before me on the 4 day of June 2014, and signed the above Affidavit as his free and voluntary act and deed.

[Signature]
Notary Public

